

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 9001 – HB 9001**

September 12, 2016

**SUMMARY OF BILL:** Expands the offense of underage driving while impaired to include any person under 21 years of age, rather than only persons 16 years of age or older but less than 18 years of age. Defines the offense as being in physical control of an automobile or motor vehicle while under the influence of any intoxicant or having a blood or breath alcohol concentration of 0.02 percent or more. Specifies that the offense of underage driving while impaired for a person 18 years of age or older but less than 21 years of age is a Class A misdemeanor punishable by driver's license suspension of one year, a \$250 fine, and public service work in the discretion of the court. Specifies that the offense of underage driving while impaired for a person less than 18 years of age is considered a delinquent act punishable by driver's license suspension of one year, a \$250 fine, and public service work in the discretion of the court. Deletes Section 2 of Chapter 1030 of the Public Acts of 2016, thereby making persons convicted under Tenn. Code Ann. § 55-10-415 ineligible for a restricted driver's license either with or without an interlock device.

**ESTIMATED FISCAL IMPACT:**

**Decrease Local Expenditures – \$18,500/Incarceration/FY16-17  
\$24,700/Incarceration/FY17-18 and Subsequent Years**

**Other Fiscal Impact - Prevents the recurring loss of \$60,000,000 in federal highway funding in FY16-17 and subsequent years.**

Assumptions:

*Federal Funding Impact:*

- On September 2, 2016, the National Highway Traffic Safety Administration (NHTSA) informed Governor Haslam and the Tennessee Department of Transportation (TDOT) of its final decision to deem Tennessee out of compliance with federal law due to the adoption of Chapter 1030 of the Public Acts of 2016. The federal law in question (23 U.S.C. § 161) provides for an eight percent penalty for states that do not enact and enforce a law that “considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the state to be driving while intoxicated or driving under the influence of alcohol.”
- The NHTSA has established a date of October 1, 2016, by which Tennessee must be compliant with the provisions of 23 U.S.C. § 161. If Tennessee is compliant by October 1, 2016, no federal penalty is anticipated.

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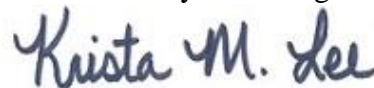
- Based on information provided by TDOT, the eight percent federal funding penalty is \$60,000,000 in annual highway funds.
- TDOT confirms the legislation as filed, will bring Tennessee into compliance with federal statute and will prevent the recurring loss of \$60,000,000 of federal highway funds for TDOT in FY16-17 and subsequent years.

*Local Government Impact:*

- Passage of Public Chapter 1030 required persons 18 to 20 years of age who are convicted to be punished under the driving under the influence (DUI) statute. Prior to July 1, 2016, these individuals would have been charged and punished under the underage driving while impaired (DWI) statute.
- The proposed legislation will restore the penalty for persons 18 to 20 years of age to that effective prior to July 1, 2016.
- Public Chapter 1030 included an estimated fiscal impact of \$24,720 in recurring local expenditures based on the estimated incarceration costs associated with 206 incarcerations borne by local governments (206 convictions x 2 days x \$60.00 per day).
- Given the date of the extraordinary session of the 109<sup>th</sup> Tennessee General Assembly, it is reasonably assumed that the fiscal impact for FY16-17 local incarceration costs will be 75 percent of the fiscal impact estimated for an entire fiscal year.
- The proposed legislation will result in a decrease in local incarceration expenditures of \$18,540 (206 convictions x 2 days x \$60.00 per day x 75 percent) in FY16-17 and the total \$24,720 in FY17-18 and subsequent years.
- The \$250 fine remains under the provisions of this bill; any impact on fine revenue will be not significant.
- The removal of the option for the offenders in question to be issues a restricted driver's license and have an ignition interlock device installed, will not have a significant fiscal impact on state or local government operations.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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